

**BUDGE, William****S/N: 10/066,483****REMARKS**

Claim 24 has been amended to insert an inadvertently omitted word in order to clarify that the second nonconductive layer is a "nonconductive silicon oxide layer". This claim amendment after a Final rejection should be entered because it resolves the §112 rejections and therefore leads either to allowable claims or else reduces the issues in an appeal.

The Examiner maintained and made final the rejection of Claims 24 and 26-31 under 35 U.S.C. §102(b) as being anticipated by USP 6,121,086 to Kuroda et al. Specifically, the Examiner refers to Figure 25 of USP'086 and identifies a P-type wordline with a first nonconductive silicon layer as #100 and an N-type wordline with a second nonconductive silicon layer as #200. The Examiner then states that the first layer is thicker than the second layer. In the Response to the Amendments, the Examiner stressed that she is interpreting the claim terms broadly, and, specifically, is interpreting thickness to be in the lateral sense. The Applicants traverse this Final rejection, and, indeed, the finality of the rejection, on the grounds that the Examiner did not respond to all of the previous submitted arguments as explained below.

The Applicants believe that the fundamental error in the Examiner's rejection is the failure to respond to Applicants' previous arguments by providing any evidence or logical support for the conclusion that the first nonconductive silicon oxide layer (Examiner's label 100) is thicker than the second nonconductive silicon oxide layer (Examiner's label 200). The Applicants agree that the claims are to be interpreted broadly and that the term thickness includes lateral thickness. However, the Applicants still believe that Kuroda et al. does not disclose the relative thicknesses of the layer #100 and the layer #200 in any direction, even the lateral direction. Critically, the Examiner still has NOT cited any place in the specification which

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discloses, or even suggests, the thickness of these layers in relation to each other in ANY direction. Although the Applicants dispute that the drawings can be relied upon to establish the relative dimensions, the Figures would not support the Examiner's position in any event. Specifically, visual analysis of FIG. 25 shows that layer #200 is drawn as thick, or thicker, than layer #100 in both the vertical and lateral directions. Therefore, the Applicants repeat the previous arguments below.

The Applicants respectfully traverse on the grounds that the reference does not expressly or implicitly disclose all of the claim limitations and the Examiner is reading limitations from the current claims into the prior art reference.

First, the basis of the Examiner's statement regarding the relative thicknesses of the first and second nonconductive layers of #100 and #200 is unclear. The text citations provided by the Examiner (col. 10, line 15; col. 13, line 67; and, col. 14, line 1) are silent on the relative thicknesses of the respective nonconductive layers. Given that all of the corresponding layers of the respective wordlines were formed simultaneously, one skilled in the art would expect that all of the corresponding height thicknesses would be equal. The lateral thicknesses of the nonconductive layers in USP'086 is determined by the placement of the plugs. However, USP'086 does not seem to provide any guidance on choosing the exact plug positions. Nor can the relative layer thicknesses be deduced by an examination of the drawings. USP'086 does not teach that the figures are to scale, and, therefore, any conclusions drawn from a comparison of the drawings is speculative, at best.

Second, if the Examiner is relying on inherency to imply the missing thickness relationships, then the Examiner must provide reasoning for why the claimed relationship must necessarily and inevitably result from the teaching of USP'086. See *Interchemical Corp. v.*

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Watson, 111 USPQ 78, 79(d) (D.C. 1956), aff'd 116 USPQ (D.C. Cir. 1958); MPEP § 2112.

The Examiner has not provided such reasoning.

Therefore, the anticipation rejection of Claim 24, and all claims dependent therefrom, fails because the Examiner has failed to show that USP'086 discloses all elements of the current claims.

The Examiner rejected Claim 25 under 35 U.S.C. §103(a) as being unpatentable over USP 6,121,086. The Applicants traverse this rejection on the grounds that USP'086 fails to teach all elements of the claimed invention as argued above (above arguments incorporated here by reference). Therefore, the *prima facie* case fails and should be withdrawn.

The Applicants believe that the above amendments and remarks place the application in condition for allowance. Therefore, the Applicants request that the Examiner issue a Notice of Allowance for Claims 24-31. In the alternative, the Applicants request that the Examiner withdraw the holding of Final from the rejections until all of the Applicant's arguments are given a full response.

No fee or petition is believed due for the filing of this amendment. If fees are due, please charge them to Deposit Account 23-2053 and consider any necessary petition to be provisionally made.

Respectfully submitted,



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